

Calendar No. 862

110TH CONGRESS
2D SESSION

S. 1738

To establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2007

Mr. BIDEN (for himself, Mrs. BOXER, Mr. DURBIN, Mr. BAYH, Mrs. LINCOLN, Mr. HATCH, Ms. MIKULSKI, Mr. OBAMA, Mr. SCHUMER, Mrs. CLINTON, Mr. DORGAN, Ms. MURKOWSKI, Mr. JOHNSON, Mr. STEVENS, Mr. LAUTENBERG, Mr. BROWN, and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 7, 2008

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other im-

provements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Combating Child Exploitation Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
 7 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.

**TITLE I—SPECIAL COUNSEL FOR CHILD EXPLOITATION
 PREVENTION AND INTERDICTION**

Sec. 101. Establishment of Special Counsel for Child Exploitation Prevention
 and Interdiction.
 Sec. 102. Establishment of ICAC Task Force Program.
 Sec. 103. Purpose of ICAC Task Forces.
 Sec. 104. Duties and functions of Task Forces.
 Sec. 105. National ICAC Data Network Center.
 Sec. 106. ICAC grant program.
 Sec. 107. Authorization of appropriations.

**TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD
 EXPLOITATION**

Sec. 201. Additional regional computer forensic labs.
 Sec. 202. Enhanced authority to investigate Internet crimes against children.
 Sec. 203. Additional field agents for the FBI.
 Sec. 204. Immigrations and customs enforcement enhancement.
 Sec. 205. Combating trafficking via the United States Postal Service.
 Sec. 206. Accountability provisions for child exploitation prevention and inter-
 diction.
 Sec. 207. Truth in sentencing report.

8 **SEC. 2. FINDINGS.**

9 Congress finds the following:

10 (1) The Internet has facilitated the growth of
 11 a multi-billion dollar global market for images and

1 video of children being sexually-displayed, raped, and
2 tortured, far exceeding law enforcement's capacity to
3 respond at the Federal, State, and local level.

4 (2) The explosion of child pornography traf-
5 ficking is claiming very young victims. Research by
6 the Department of Justice, the University of New
7 Hampshire, and the National Center for Missing
8 and Exploited Children indicates that among those
9 arrested for possession of child pornography, 83 per-
10 cent have images of children 6-12 years old, 39 per-
11 cent have images of children 3-5 years old, and 19
12 percent have images of children under the age of 3
13 years old.

14 (3) The images and videos being trafficked typi-
15 cally depict sexual assaults that are both graphic
16 and brutal. The same research indicates that 80 per-
17 cent of known child pornography possessors have im-
18 ages of children being sexually penetrated and 21
19 percent have images depicting children bound,
20 gagged, blindfolded, or "otherwise enduring sadistic
21 sex." Just 1 percent restricted their collecting to im-
22 ages of simple child nudity.

23 (4) Millions of American children and teens are
24 at risk from sexual predators who are hunting,
25 stalking, and luring minors online. Along with the

1 incredible access to the world offered our children by
2 the Internet, the Internet also offers the world ac-
3 cess to our children.

4 (5) The Internet Crimes Against Children Task
5 Force program (“ICAC Program”) of the Depart-
6 ment of Justice has identified millions of child por-
7 nography transactions involving images and video of
8 child sexual assault from millions of computer IP
9 addresses worldwide.

10 (6) The ICAC Program has been highly suc-
11 cessful in creating and sustaining an emerging na-
12 tional network of 46 Federal, State, and local task
13 forces, which form the backbone of America’s na-
14 tional readiness to combat child exploitation.

15 (7) In testimony before Congress, law enforce-
16 ment experts have expressed consensus that lack of
17 dedicated forensic analysis capacity is a severe prob-
18 lem at the Federal, State, and local level, severely
19 limiting the number of predators that can be inter-
20 dicted and children that can be identified and res-
21 cued.

22 (8) The Federal Bureau of Investigation, the
23 Department of Immigrations and Customs Enforce-
24 ment, and the United States Postal Inspection Serv-
25 ice have each developed highly specialized and suc-

1 cessful child exploitation investigative capabilities;
2 yet these agencies have testified to Congress that
3 they must triage the overwhelming number of child
4 exploitation crimes and cannot investigate a large
5 percentage of known crimes.

6 (9) Child pornography and online child entice-
7 ment crimes have among the highest conviction rates
8 of any child sexual offense, and the Department of
9 Justice funded research indicates that the majority
10 of child pornography offenders have committed or
11 attempted direct sexual contact offenses against chil-
12 dren. Investigating and prosecuting these predators
13 is thus one of the most concrete and measurable
14 strategies for the prevention of future child sexual
15 abuse.

16 **SEC. 3. DEFINITIONS.**

17 In this Act, the following definitions shall apply:

18 (1) **CHILD EXPLOITATION.**—The term “child
19 exploitation” means any conduct, or an attempt or
20 conspiracy to commit such conduct, constituting
21 criminal sexual abuse of a minor, sexual exploitation
22 of a minor, abusive sexual contact of a minor, sexu-
23 ally explicit conduct with a minor, or any similar of-
24 fense under Federal or State law.

1 (2) MINOR.—The term “minor” means any per-
2 son under the age of 18 years.

3 (3) SEXUALLY EXPLICIT CONDUCT.—The term
4 “sexually explicit conduct” has the meaning as in
5 section 2256 of title 18, United States Code.

6 **TITLE I—SPECIAL COUNSEL FOR**
7 **CHILD EXPLOITATION PRE-**
8 **VENTION AND INTERDICTION**

9 **SEC. 101. ESTABLISHMENT OF SPECIAL COUNSEL FOR**
10 **CHILD EXPLOITATION PREVENTION AND**
11 **INTERDICTION.**

12 (a) IN GENERAL.—The Attorney General shall ap-
13 point a Special Counsel for Child Exploitation Prevention
14 and Interdiction within the Office of the Deputy Attorney
15 General.

16 (b) DUTIES OF THE SPECIAL COUNSEL.—The Spe-
17 cial Counsel appointed under subsection (a) shall have the
18 following duties:

19 (1) Coordinating the policies and strategies of
20 the Department of Justice related to the prevention
21 and investigation of child exploitation cases, includ-
22 ing the policies and strategies of the Office of Jus-
23 tice Programs, the Criminal Division of the Depart-
24 ment of Justice, the Executive Office of United
25 States Attorneys, the Federal Bureau of Investiga-

tion, and any other agency or bureau of the Department of Justice whose activities relate to child exploitation cases.

(2) Pursuing memorandums of understanding or other interagency agreements related to the prevention, investigation, and apprehension of individuals exploiting children, including seeking cooperation and collaboration with—

(A) the Bureau of Immigration and Customs Enforcement;

(B) the Department of State;

(C) the Department of Commerce;

(D) the Department of Education; and

(E) other Federal agencies.

(3) Directing and overseeing the ICAC Task Force Program established under section 102.

(4) Directing and overseeing the National Internet Crimes Against Children Data Network Center established under section 105.

(5) Directing and overseeing the ICAC grant program established under section 106.

(6) Coordinating technical assistance to Federal, State, local, and tribal law enforcement agencies in the prevention, investigation, and prosecution of child exploitation crimes.

1 (7) Coordinating training to Federal, State,
2 local, and tribal law enforcement agencies in the pre-
3 vention, investigation, and prosecution of child ex-
4 ploitation crimes.

5 (8) Coordinating training and technical assist-
6 ance to Federal, State, local, and tribal on forensic
7 computer examination and analysis.

8 (9) Directing and overseeing programs for child
9 exploitation prevention and education, including pro-
10 grams related to Internet safety.

11 (10) Maintaining liaison with the judicial
12 branches of the Federal and State Governments on
13 matters relating to child exploitation.

14 (11) Providing information to the President,
15 the Congress, the judiciary, State, local, and tribal
16 governments, and the general public on matters re-
17 lating to child exploitation.

18 (12) Serving, at the request of the Attorney
19 General, as the representative of the Department of
20 Justice on domestic task forces, committees, or com-
21 missions addressing policy or issues relating to child
22 exploitation.

23 (13) Serving, at the request of the President,
24 acting through the Attorney General, as the rep-
25 resentative of the United States Government on

human rights and economic justice matters related to child exploitation in international fora, including the United Nations.

(14) Providing technical assistance, coordination, and support to—

(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to child exploitation cases, including the litigation of civil and criminal actions relating to enforcing such laws;

(B) other Federal, State, local, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate child exploitation; and

(C) grantees, in efforts to combat child exploitation and to provide support and assistance to victims of such exploitation.

SEC. 102. ESTABLISHMENT OF ICAC TASK FORCE PROGRAM.

(a) **ESTABLISHMENT.**—There is established within the Office of Justice Programs in the Department of Justice, under the general authority of the Attorney General, an Internet Crimes Against Children Task Force (hereinafter in this title referred to as the “ICAC Task Force”);

1 which shall consist of a national program of State and
 2 local law enforcement task forces dedicated to developing
 3 effective responses to online enticement of children by sex-
 4 ual predators, child exploitation, and child obscenity and
 5 pornography cases.

6 (b) NATIONAL PROGRAM.—The national ICAC Task
 7 Force program required under subsection (a) shall consist
 8 of at least 1 ICAC task force in each State.

9 **SEC. 103. PURPOSE OF ICAC TASK FORCES.**

10 The ICAC Task Force, and each State or local ICAC
 11 task force that is part of the national program of task
 12 forces shall be dedicated towards—

13 (1) increasing the investigative capabilities of
 14 State and local law enforcement officers in the de-
 15 tection, investigation, and apprehension of Internet
 16 crimes against children offenses or offenders, includ-
 17 ing technology-facilitated child exploitation offenses;

18 (2) conducting proactive and reactive Internet
 19 crimes against children investigations;

20 (3) providing training and technical assistance
 21 to ICAC Task Forces and other Federal, State, and
 22 local law enforcement agencies in the areas of inves-
 23 tigation, forensics, prosecution, community out-
 24 reach, and capacity-building, using recognized ex-

1 perts to assist in the development and delivery of
2 training programs;

3 (4) increasing the number of Internet crimes
4 against children offenses being prosecuted in both
5 Federal and State courts;

6 (5) creating a multiagency task force response
7 to Internet crimes against children offenses within
8 each State;

9 (6) enhancing nationwide responses to Internet
10 crimes against children offenses, including assisting
11 other ICAC task forces, as well as other Federal,
12 State, and local agencies with Internet crimes
13 against children investigations and prosecutions;

14 (7) developing and delivering Internet crimes
15 against children public awareness and prevention
16 programs; and

17 (8) participating in such other activities, both
18 proactive and reactive, that will enhance investiga-
19 tions and prosecutions of Internet crimes against
20 children.

21 **SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.**

22 Each State or local ICAC task force that is part of
23 the national program of task forces shall—

24 (1) consist of State and local investigators,
25 prosecutors, forensic specialists, and education spe-

1 cialists who are dedicated full-time to address the
2 goals of such task force;

3 ~~(2)~~ work consistently towards achieving the
4 purposes described in section ~~103~~;

5 ~~(3)~~ engage in proactive investigations, forensic
6 examinations, and effective prosecutions of Internet
7 crimes against children;

8 ~~(4)~~ provide forensic, preventive, and investiga-
9 tive assistance to parents, educators, prosecutors,
10 law enforcement, and others concerned with Internet
11 crimes against children;

12 ~~(5)~~ develop multijurisdictional, multiagency re-
13 sponses and partnerships to Internet crimes against
14 children offenses through ongoing informational, ad-
15 ministrative, and technological support to other
16 State and local law enforcement agencies, as a
17 means for such agencies to acquire the necessary
18 knowledge, personnel, and specialized equipment to
19 investigate and prosecute such offenses;

20 ~~(6)~~ fully participate in any nationally coordi-
21 nated investigation, as requested by the Attorney
22 General;

23 ~~(7)~~ establish investigative and prosecution
24 standards, consistent with established norms, to
25 which that task force shall comply;

1 (8) investigate, and seek prosecution on, tips
 2 related to Internet crimes against children, including
 3 tips from other law enforcement agencies, ICAC task
 4 forces, the National Center for Missing and Ex-
 5 ploited Children, and other Federal, State, and local
 6 agencies;

7 (9) develop procedures for handling seized evi-
 8 dence;

9 (10) maintain such reports and records as are
 10 required under this title; and

11 (11) seek to comply with national standards re-
 12 garding the investigation and prosecution of Internet
 13 crimes against children, as set forth by the Attorney
 14 General, to the extent such standards are consistent
 15 with the law of the State where the task force is lo-
 16 cated.

17 **SEC. 105. NATIONAL ICAC DATA NETWORK CENTER.**

18 (a) IN GENERAL.—The Attorney General shall estab-
 19 lish a National Internet Crimes Against Children Data
 20 Network Center.

21 (b) PURPOSE OF CENTER.—The National Internet
 22 Crimes Against Children Data Network Center established
 23 under subsection (a) shall be dedicated to assisting—

24 (1) the ICAC Task Force Program established
 25 under this title; and

1 ~~(2) Federal, State, local, and tribal agencies in-~~
2 ~~vestigating and prosecuting child exploitation.~~

3 ~~(c) MANDATORY REQUIREMENTS FOR CENTER.—~~

4 ~~The National Internet Crimes Against Children Data Net-~~
5 ~~work Center established under subsection (a) shall develop~~
6 ~~and maintain an integrated technology and training pro-~~
7 ~~gram that provides—~~

8 ~~(1) a secure, online information-sharing and~~
9 ~~case management system for use by ICAC Task~~
10 ~~Forces, Federal law enforcement agencies, and other~~
11 ~~State and local law enforcement agencies;~~

12 ~~(2) a secure, online system for resolving case~~
13 ~~conflicts, for use by ICAC Task Forces, Federal law~~
14 ~~enforcement agencies, and other State and local law~~
15 ~~enforcement agencies;~~

16 ~~(3) a secure intelligence data storage and anal-~~
17 ~~ysis system for use by ICAC Task Forces, Federal~~
18 ~~law enforcement agencies, and other State and local~~
19 ~~law enforcement agencies;~~

20 ~~(4) guidelines for the use of such Data Network~~
21 ~~by Federal, State, and local law enforcement agen-~~
22 ~~cies; and~~

23 ~~(5) training and technical assistance on the use~~
24 ~~of such Data Network by Federal, State, and local~~
25 ~~law enforcement agencies.~~

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated for each of the fiscal
 3 years 2008 through 2015, \$2,000,000 to carry out the
 4 provisions of this section, including for—

5 (1) the establishment of the National Internet
 6 Crimes Against Children Data Network Center; and

7 (2) the costs of operating and maintaining such
 8 Center.

9 **SEC. 106. ICAC GRANT PROGRAM.**

10 (a) ESTABLISHMENT.—

11 (1) IN GENERAL.—The Attorney General is au-
 12 thorized to award grants to State and local ICAC
 13 task forces to assist in carrying out the duties and
 14 functions described under section 104.

15 (2) FORMULA.—

16 (A) ATTORNEY GENERAL TO DEVELOP.—

17 At least 75 percent of the total funds appro-
 18 priated for grants under paragraph (1) shall be
 19 awarded or otherwise distributed pursuant to a
 20 funding formula established by the Attorney
 21 General.

22 (B) BASELINE AMOUNT.—Any formula es-
 23 tablished by the Attorney General under sub-
 24 paragraph (A), shall—

1 (i) ensure that each State or local
2 ICAC task force shall, at a minimum, re-
3 ceive an amount equal to 1 percent of the
4 total funds appropriated for grants under
5 paragraph (1); and

6 (ii) take into consideration the fol-
7 lowing factors:

8 (I) The population of each State,
9 as determined by the most recent de-
10 cennial census performed by the Bu-
11 reau of the Census.

12 (II) The number of investigative
13 leads generated by the integrated
14 technology system of each ICAC Task
15 Force.

16 (III) The number of Internet
17 crimes against children criminal cases
18 referred by a task force for Federal,
19 State, or local prosecution.

20 (IV) The number of successful
21 prosecutions of child exploitation
22 cases by a task force.

23 (V) Such other criteria as the At-
24 torney General determines dem-

1 onstrates the level of need for addi-
2 tional resources by a task force.

3 ~~(C) REMAINING FUNDS.—~~

4 ~~(i) IN GENERAL.—~~The funds remain-
5 ing for grants under this section after allo-
6 cation of the baseline amounts under sub-
7 paragraph (B) shall be distributed to State
8 and local ICAC task forces based upon
9 need, as set forth by criteria established by
10 the Attorney General. Such criteria shall
11 include:

12 ~~(I) The population of each State,~~
13 as determined by the most recent de-
14 cennial census performed by the Bu-
15 reau of the Census.

16 ~~(II) The number of investigative~~
17 leads generated by the integrated
18 technology system of each ICAC Task
19 Force.

20 ~~(III) The number of Internet~~
21 crimes against children criminal cases
22 referred by a task force for Federal,
23 State, or local prosecution.

1 (IV) The number of successful
2 prosecutions of child exploitation
3 cases by a task force.

4 (V) Such other criteria as the At-
5 torney General determines dem-
6 onstrates the level of need for addi-
7 tional resources by a task force.

8 (ii) MATCHING REQUIREMENT.—To
9 be eligible to receive any remaining grant
10 funds under this subparagraph, a State or
11 local ICAC task force shall contribute
12 matching non-Federal funds in an amount
13 equal to not less than 25 percent of the
14 total amount of the grant.

15 (b) APPLICATION.—

16 (1) IN GENERAL.—Each State or local ICAC
17 task force seeking a grant under this section shall
18 submit an application to the Attorney General at
19 such time, in such manner, and accompanied by
20 such information as the Attorney General may rea-
21 sonably require.

22 (2) CONTENTS.—Each application submitted
23 pursuant to paragraph (1) shall—

24 (A) describe the activities for which assist-
25 ance under this section is sought; and

1 ~~(B)~~ provide such additional assurances as
2 the Attorney General determines to be essential
3 to ensure compliance with the requirements of
4 this title.

5 ~~(c)~~ ALLOWABLE USES.—Grants awarded under this
6 section may be used to—

7 ~~(1)~~ hire personnel, investigators, prosecutors,
8 education specialists, and forensic specialists;

9 ~~(2)~~ establish and support forensic laboratories
10 utilized in Internet crimes against children investiga-
11 tions;

12 ~~(3)~~ support investigations and prosecutions of
13 Internet crimes against children;

14 ~~(4)~~ conduct and assist with education programs
15 to help children and parents protect themselves from
16 Internet predators;

17 ~~(5)~~ conduct and attend training sessions related
18 to successful investigations and prosecutions of
19 Internet crimes against children; and

20 ~~(6)~~ fund any other activities directly related to
21 preventing, investigating, or prosecuting Internet
22 crimes against children.

23 ~~(d)~~ REPORTING REQUIREMENTS.—

24 ~~(1)~~ ICAC REPORTS.—To measure the results of
25 the activities funded by grants under this section;

1 and to assist the Attorney General in complying with
 2 the Government Performance and Results Act (Pub-
 3 lie Law 103-62; 107 Stat. 285), each State or local
 4 ICAC task force receiving a grant under this section
 5 shall, on an annual basis, submit a report to the At-
 6 torney General that sets forth the following:

7 (A) Staffing levels of the task force, in-
 8 cluding the number of investigators, prosecu-
 9 tors, education specialists, and forensic special-
 10 ists dedicated to investigating and prosecuting
 11 Internet crimes against children.

12 (B) Investigation and prosecution perform-
 13 ance measures of the task force, including—

14 (i) the number of Internet crimes
 15 against children related arrests;

16 (ii) the number of prosecutions for
 17 Internet crimes against children, includ-
 18 ing—

19 (I) whether the prosecution re-
 20 sulted in a conviction for such crime;
 21 and

22 (II) the sentence and the statu-
 23 tory maximum for such crime under
 24 State law.

1 (C) The number of referrals made by the
2 task force to the United States Attorneys office;
3 including whether the referral was accepted by
4 the United States Attorney.

5 (D) The number of investigative technical
6 assistance sessions that the task force provided
7 to non-member law enforcement agencies.

8 (E) The number of computer forensic ex-
9 aminations that the task force completed.

10 (F) The number of law enforcement agen-
11 cies participating in Internet crimes against
12 children program standards established by the
13 task force.

14 (2) REPORT TO CONGRESS.—Not later than 1
15 year after the date of enactment of this Act, the At-
16 torney General shall submit a report to Congress
17 on—

18 (A) the progress of the development of the
19 ICAC Task Forces established under this title;
20 and

21 (B) the number of Federal and State in-
22 vestigations, prosecutions, and convictions in
23 the prior 12-month period related to child ex-
24 ploitation.

1 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) **IN GENERAL.**—There are authorized to be appro-
 3 priated to carry out this title—

4 (1) \$60,000,000 for fiscal year 2008;

5 (2) \$75,000,000 for fiscal year 2009;

6 (3) \$75,000,000 for fiscal year 2010;

7 (4) \$75,000,000 for fiscal year 2011;

8 (5) \$75,000,000 for fiscal year 2012;

9 (6) \$75,000,000 for fiscal year 2013;

10 (7) \$100,000,000 for fiscal year 2014; and

11 (8) \$100,000,000 for fiscal year 2015.

12 (b) **AVAILABILITY.**—Funds appropriated under sub-
 13 section (a) shall remain available until expended.

14 **TITLE II—ADDITIONAL MEAS-**
 15 **URES TO COMBAT CHILD EX-**
 16 **PLOITATION**

17 **SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC**
 18 **LABS.**

19 (a) **ADDITIONAL RESOURCES.**—The Attorney shall
 20 establish additional computer forensic capacity to address
 21 the current backlog for computer forensics, including for
 22 child exploitation investigations. The Attorney General
 23 may utilize funds under this title to establish new regional
 24 computer forensic laboratories within the Regional Com-
 25 puter Forensic Laboratories Program operated by the

1 Federal Bureau of Investigation or may increase capacity
2 at existing laboratories.

3 (b) NEW COMPUTER FORENSIC LABS.—If the Attor-
4 ney General determines that new regional computer foren-
5 sic laboratories are needed under subsection (a) to address
6 existing backlogs, such new laboratories shall be estab-
7 lished pursuant to subsection (d).

8 (c) PURPOSE OF NEW RESOURCES.—The additional
9 forensic capacity established by the resources provided
10 under this section shall prioritize its activities to assist
11 Federal agencies, State and local Internet Crimes Against
12 Children task forces, and other Federal, State, and local
13 law enforcement agencies in preventing, investigating, and
14 prosecuting Internet crimes against children.

15 (d) PURPOSE OF NEW ADDITIONAL CAPACITY.—The
16 location of any new regional computer forensic labora-
17 tories under this section shall be determined by the Attor-
18 ney General, in consultation with the Director of the Fed-
19 eral Bureau of Investigation, the Regional Computer Fo-
20 rensic Laboratory National Steering Committee, and other
21 relevant stakeholders.

22 (e) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, and every year thereafter, the
24 Attorney General shall submit a report to the Congress

1 on how the funds appropriated under this section were uti-
 2 lized.

3 (f) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There
 4 are authorized to be appropriated for fiscal years 2008
 5 through 2015, \$7,00,000 to carry out the provisions of
 6 this section.

7 **SEC. 202. ENHANCED AUTHORITY TO INVESTIGATE INTER-**
 8 **NET CRIMES AGAINST CHILDREN.**

9 Section 2516(2) of title 18, United States Code, is
 10 amended by inserting “or crimes against children, includ-
 11 ing child exploitation, child obscenity, or other crimes dan-
 12 gerous to the life, limb, and well-being of minor children,”
 13 after “other dangerous drugs,”.

14 **SEC. 203. ADDITIONAL FIELD AGENTS FOR THE FBI.**

15 (a) ~~IN GENERAL.~~—There are authorized to be appro-
 16 priated to the Attorney General \$20,000,000, for each of
 17 the fiscal years 2008 through 2009, and \$25,000,000 for
 18 each of fiscal years 2010 through 2015, to fund the hiring
 19 of full-time Federal Bureau of Investigation field agents
 20 and associated analysts and support staff in addition to
 21 the number of such employees serving in those capacities
 22 on the date of enactment of this Act.

23 (b) ~~SOLE PURPOSE.~~—The sole purpose of the addi-
 24 tional staff required to be hired under subsection (a) is
 25 to work on child exploitation cases as part of the Federal

1 Bureau of Investigation's Innocent Images National Ini-
2 tiative.

3 **SEC. 204. IMMIGRATIONS AND CUSTOMS ENFORCEMENT**
4 **ENHANCEMENT.**

5 (a) **ADDITIONAL AGENTS.**—There are authorized to
6 be appropriated to the Secretary of Homeland Security
7 \$15,000,000, for each of the fiscal years 2008 through
8 2015, to fund the hiring of full-time agents and associated
9 analysts and support staff within the Bureau of Immigra-
10 tion and Customs Enforcement in addition to the number
11 of such employees serving in those capacities on the date
12 of enactment of this Act.

13 (b) **SOLE PURPOSE.**—The sole purpose of the addi-
14 tional staff required to be hired under subsection (a) is
15 to work on child exploitation and child obscenity cases.

16 **SEC. 205. COMBATING TRAFFICKING VIA THE UNITED**
17 **STATES POSTAL SERVICE.**

18 (a) **IN GENERAL.**—There are authorized to be appro-
19 priated to the Postmaster General \$5,000,000, for each
20 of the fiscal years 2008 through 2015, to fund the hiring
21 of full-time agents and associated analysts and support
22 staff in addition to the number of such employees serving
23 in those capacities on the date of enactment of this Act.

1 (b) ~~SOLE PURPOSE.~~—The sole purpose of the addi-
 2 tional staff required to be hired under subsection (a) is
 3 to work on child exploitation and child obscenity cases.

4 **SEC. 206. ACCOUNTABILITY PROVISIONS FOR CHILD EX-**
 5 **PLOITATION PREVENTION AND INTERDIC-**
 6 **TION.**

7 The Attorney General, in consultation with the Sec-
 8 retary of Homeland Security and the Postmaster General,
 9 shall report to the Committees on the Judiciary of the
 10 Senate and House of Representatives and any other rel-
 11 evant committee of jurisdiction, on an annual basis, on
 12 the resources (agents, forensic labs, prosecutors, etc.)
 13 being utilized by such agencies to investigate and pros-
 14 ecute child exploitation and child obscenity cases, includ-
 15 ing the resources established under this title, the Adam
 16 Walsh Child Protection and Safety Act of 2006 (Public
 17 Law 109–248; 120 Stat. 587), and any other law related
 18 to combating child exploitation and child obscenity.

19 **SEC. 207. TRUTH IN SENTENCING REPORT.**

20 Not later than 1 year after the date of enactment
 21 of this Act, the Comptroller General of the United States
 22 shall conduct a study and report to Congress on the efforts
 23 to combat child exploitation at the Federal, State, and
 24 local level, including an examination of the average sen-

1 tences for child sex offenders and the length of time served
 2 for each individual child sex offender.

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Combating Child Exploitation Act of 2008”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION
 PREVENTION AND INTERDICTION**

*Sec. 101. Establishment of National Strategy for Child Exploitation Prevention
 and Interdiction.*

Sec. 102. Establishment of National ICAC Task Force Program.

Sec. 103. Purpose of ICAC task forces.

Sec. 104. Duties and functions of task forces.

Sec. 105. National Internet Crimes Against Children Data System.

Sec. 106. ICAC grant program.

Sec. 107. Authorization of appropriations.

**TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD
 EXPLOITATION**

Sec. 201. Additional regional computer forensic labs.

Sec. 202. Additional field agents for the FBI.

Sec. 203. Immigration and customs enforcement enhancement.

Sec. 204. Combating child exploitation via the United States Postal Service.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

Sec. 301. Effective child pornography prosecution.

Sec. 302. Prohibit the broadcast of live images of child abuse.

Sec. 303. Amendment to section 2256 of title 18, United States Code.

Sec. 304. Amendment to section 2260 of title 18, United States Code.

*Sec. 305. Prohibiting the alteration of an image of a real child to create an image
 of sexually explicit conduct.*

Sec. 306. Referrals to authorized foreign law enforcement agencies.

**TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK
 FACTORS**

Sec. 401. NIJ Study of Risk Factors for Assessing Dangerousness.

8 **SEC. 2. DEFINITIONS.**

9 *In this Act, the following definitions shall apply:*

1 (1) *CHILD EXPLOITATION.*—The term “child ex-
2 ploitation” means any conduct, attempted conduct, or
3 conspiracy to engage in conduct involving a minor
4 that violates section 1591, chapter 109A, chapter 110,
5 and chapter 117 of title 18, United States Code, or
6 any sexual activity involving a minor for which any
7 person can be charged with a criminal offense.

8 (2) *CHILD OBSCENITY.*—The term “child obscen-
9 ity” means any visual depiction proscribed by section
10 1466A of title 18, United States Code.

11 (3) *MINOR.*—The term “minor” means any per-
12 son under the age of 18 years.

13 (4) *SEXUALLY EXPLICIT CONDUCT.*—The term
14 “sexually explicit conduct” has the meaning given
15 such term in section 2256 of title 18, United States
16 Code.

1 **TITLE I—NATIONAL STRATEGY**
2 **FOR CHILD EXPLOITATION**
3 **PREVENTION AND INTERDIC-**
4 **TION**

5 **SEC. 101. ESTABLISHMENT OF NATIONAL STRATEGY FOR**
6 **CHILD EXPLOITATION PREVENTION AND**
7 **INTERDICTION.**

8 (a) *IN GENERAL.*—The Attorney General of the United
9 States shall create and implement a National Strategy for
10 Child Exploitation Prevention and Interdiction.

11 (b) *TIMING.*—Not later than February 1 of each year,
12 the Attorney General shall submit to Congress the National
13 Strategy established under subsection (a).

14 (c) *REQUIRED CONTENTS OF NATIONAL STRATEGY.*—
15 The National Strategy established under subsection (a) shall
16 include the following:

17 (1) *Comprehensive long-range, goals for reducing*
18 *child exploitation.*

19 (2) *Annual measurable objectives and specific*
20 *targets to accomplish long-term, quantifiable goals*
21 *that the Attorney General determines may be achieved*
22 *during each year beginning on the date when the Na-*
23 *tional Strategy is submitted.*

24 (3) *Annual budget priorities and Federal efforts*
25 *dedicated to combating child exploitation, including*

1 *resources dedicated to Internet Crimes Against Chil-*
2 *dren task forces, Project Safe Childhood, FBI Inno-*
3 *cent Images Initiative, the National Center for Miss-*
4 *ing and Exploited Children, regional forensic com-*
5 *puter labs, Internet Safety programs, and all other*
6 *entities whose goal or mission is to combat the exploi-*
7 *tation of children that receive Federal support.*

8 (4) *A 5-year projection for program and budget*
9 *goals and priorities.*

10 (5) *A review of the policies and work of the De-*
11 *partment of Justice related to the prevention and in-*
12 *vestigation of child exploitation crimes, including ef-*
13 *forts at the Office of Justice Programs, the Criminal*
14 *Division of the Department of Justice, the Executive*
15 *Office of United States Attorneys, the Federal Bureau*
16 *of Investigation, the Office of the Attorney General,*
17 *the Office of the Deputy Attorney General, the Office*
18 *of Legal Policy, and any other agency or bureau of*
19 *the Department of Justice whose activities relate to*
20 *child exploitation.*

21 (6) *A description of the Department's efforts to*
22 *coordinate with international, State, local, tribal law*
23 *enforcement, and private sector entities on child ex-*
24 *ploitation prevention and interdiction efforts.*

1 (7) *Plans for interagency coordination regarding*
2 *the prevention, investigation, and apprehension of in-*
3 *dividuals exploiting children, including cooperation*
4 *and collaboration with—*

5 (A) *Immigration and Customs Enforce-*
6 *ment;*

7 (B) *the United States Postal Inspection*
8 *Service;*

9 (C) *the Department of State;*

10 (D) *the Department of Commerce;*

11 (E) *the Department of Education;*

12 (F) *the Department of Health and Human*
13 *Services; and*

14 (G) *other appropriate Federal agencies.*

15 (8) *A review of the Internet Crimes Against*
16 *Children Task Force Program, including—*

17 (A) *the number of ICAC task forces and lo-*
18 *cation of each ICAC task force;*

19 (B) *the number of trained personnel at each*
20 *ICAC task force;*

21 (C) *the amount of Federal grants awarded*
22 *to each ICAC task force;*

23 (D) *an assessment of the Federal, State, and*
24 *local cooperation in each task force, including—*

1 (i) the number of arrests made by each
2 task force;

3 (ii) the number of criminal referrals to
4 United States attorneys for prosecution;

5 (iii) the number of prosecutions and
6 convictions from the referrals made under
7 clause (ii);

8 (iv) the number, if available, of local
9 prosecutions and convictions based on ICAC
10 task force investigations; and

11 (v) any other information dem-
12 onstrating the level of Federal, State, and
13 local coordination and cooperation, as such
14 information is to be determined by the At-
15 torney General;

16 (E) an assessment of the training opportu-
17 nities and technical assistance available to sup-
18 port ICAC task force grantees; and

19 (F) an assessment of the success of the
20 Internet Crimes Against Children Task Force
21 Program at leveraging State and local resources
22 and matching funds.

23 (9) An assessment of the technical assistance and
24 support available for Federal, State, local, and tribal

1 *law enforcement agencies, in the prevention, inves-*
2 *tigation, and prosecution of child exploitation crimes.*

3 *(10) The backlog of forensic analysis for child ex-*
4 *ploitation cases at each FBI Regional Forensic lab*
5 *and an estimate of the backlog at State and local labs.*

6 *(11) Plans for reducing the forensic backlog de-*
7 *scribed in paragraph (10), if any, at Federal, State*
8 *and local forensic labs.*

9 *(12) A review of the Federal programs related to*
10 *child exploitation prevention and education, includ-*
11 *ing those related to Internet safety, including efforts*
12 *by the private sector and nonprofit entities, or any*
13 *other initiatives, that have proven successful in pro-*
14 *moting child safety and Internet safety.*

15 *(13) An assessment of the future trends, chal-*
16 *lenges, and opportunities, including new technologies,*
17 *that will impact Federal, State, local, and tribal ef-*
18 *forts to combat child exploitation.*

19 *(14) Plans for liaisons with the judicial branches*
20 *of the Federal and State governments on matters re-*
21 *lating to child exploitation.*

22 *(15) An assessment of Federal investigative and*
23 *prosecution activity relating to reported incidents of*
24 *child exploitation crimes, which shall include a num-*
25 *ber of factors, including—*

1 (A) *the number of high-priority suspects*
2 *(identified because of the volume of suspected*
3 *criminal activity or because of the danger to the*
4 *community or a potential victim) who were in-*
5 *vestigated and prosecuted;*

6 (B) *the number of investigations, arrests,*
7 *prosecutions and convictions for a crime of child*
8 *exploitation; and*

9 (C) *the average sentence imposed and statu-*
10 *tory maximum for each crime of child exploi-*
11 *tation.*

12 (16) *A review of all available statistical data in-*
13 *dicating the overall magnitude of child pornography*
14 *trafficking in the United States and internationally,*
15 *including—*

16 (A) *the number of computers or computer*
17 *users, foreign and domestic, observed engaging*
18 *in, or suspected by law enforcement agencies and*
19 *other sources of engaging in, peer-to-peer file*
20 *sharing of child pornography;*

21 (B) *the number of computers or computer*
22 *users, foreign and domestic, observed engaging*
23 *in, or suspected by law enforcement agencies and*
24 *other reporting sources of engaging in, buying*

1 *and selling, or other commercial activity related*
 2 *to child pornography;*

3 *(C) the number of computers or computer*
 4 *users, foreign and domestic, observed engaging*
 5 *in, or suspected by law enforcement agencies and*
 6 *other sources of engaging in, all other forms of*
 7 *activity related to child pornography;*

8 *(D) the number of tips or other statistical*
 9 *data from the National Center for Missing and*
 10 *Exploited Children's Cybertipline and other*
 11 *data indicating the magnitude of child pornog-*
 12 *raphy trafficking; and*

13 *(E) any other statistical data indicating the*
 14 *type, nature, and extent of child exploitation*
 15 *crime in the United States and abroad.*

16 *(17) Copies of recent relevant research and stud-*
 17 *ies related to child exploitation, including—*

18 *(A) studies related to the link between pos-*
 19 *session or trafficking of child pornography and*
 20 *actual abuse of a child;*

21 *(B) studies related to establishing a link be-*
 22 *tween the types of files being viewed or shared*
 23 *and the type of illegal activity; and*

24 *(C) any other research, studies, and avail-*
 25 *able information related to child exploitation.*

1 (18) *A review of the extent of cooperation, co-*
 2 *ordination, and mutual support between private sec-*
 3 *tor and other entities and organizations and Federal*
 4 *agencies, including the involvement of States, local*
 5 *and tribal government agencies to the extent Federal*
 6 *programs are involved.*

7 (19) *The results of the Project Safe Childhood*
 8 *Conference or other conferences or meetings convened*
 9 *by the Department of Justice related to combating*
 10 *child exploitation*

11 (d) *APPOINTMENT OF HIGH-LEVEL OFFICIAL.—*

12 (1) *IN GENERAL.—The Attorney General shall*
 13 *designate a senior official at the Department of Jus-*
 14 *tice to be responsible for coordinating the development*
 15 *of the National Strategy established under subsection*
 16 *(a).*

17 (2) *DUTIES.—The duties of the official des-*
 18 *ignated under paragraph (1) shall include—*

19 (A) *acting as a liaison with all Federal*
 20 *agencies regarding the development of the Na-*
 21 *tional Strategy;*

22 (B) *working to ensure that there is proper*
 23 *coordination among agencies in developing the*
 24 *National Strategy;*

(C) being knowledgeable about budget priorities and familiar with all efforts within the Department of Justice and the FBI related to child exploitation prevention and interdiction; and

(D) presenting the National Strategy to Congress and being available to answer questions related to the strategy at congressional hearings, if requested by committees of appropriate jurisdictions, on the contents of the National Strategy and progress of the Department of Justice in implementing the National Strategy.

SEC. 102. ESTABLISHMENT OF NATIONAL ICAC TASK FORCE PROGRAM.

(a) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—There is established within the Department of Justice, under the general authority of the Attorney General, a National Internet Crimes Against Children Task Force Program (hereinafter in this title referred to as the “ICAC Task Force Program”), which shall consist of a national program of State and local law enforcement task forces dedicated to developing effective responses to on-line enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases.

1 (2) *INTENT OF CONGRESS.*—*It is the purpose*
2 *and intent of Congress that the ICAC Task Force Pro-*
3 *gram established under paragraph (1) is intended to*
4 *continue the ICAC Task Force Program authorized*
5 *under title I of the Departments of Commerce, Jus-*
6 *tice, and State, the Judiciary, and Related Agencies*
7 *Appropriations Act, 1998, and funded under title IV*
8 *of the Juvenile Justice and Delinquency Prevention*
9 *Act of 1974.*

10 (b) *NATIONAL PROGRAM.*—

11 (1) *STATE REPRESENTATION.*—*The ICAC Task*
12 *Force Program established under subsection (a) shall*
13 *include at least 1 ICAC task force in each State.*

14 (2) *CAPACITY AND CONTINUITY OF INVESTIGA-*
15 *TIONS.*—*In order to maintain established capacity*
16 *and continuity of investigations and prosecutions of*
17 *child exploitation cases, the Attorney General, shall,*
18 *in establishing the ICAC Task Force Program under*
19 *subsection (a) consult with and consider all 59 task*
20 *forces in existence on the date of enactment of this*
21 *Act. The Attorney General shall include all existing*
22 *ICAC task forces in the ICAC Task Force Program,*
23 *unless the Attorney General makes a determination*
24 *that an existing ICAC does not have a proven track*
25 *record of success.*

1 **SEC. 103. PURPOSE OF ICAC TASK FORCES.**

2 *The ICAC Task Force Program, and each State or*
3 *local ICAC task force that is part of the national program*
4 *of task forces, shall be dedicated toward—*

5 (1) *increasing the investigative capabilities of*
6 *State and local law enforcement officers in the detec-*
7 *tion, investigation, and apprehension of Internet*
8 *crimes against children offenses or offenders, includ-*
9 *ing technology-facilitated child exploitation offenses;*

10 (2) *conducting proactive and reactive Internet*
11 *crimes against children investigations;*

12 (3) *providing training and technical assistance*
13 *to ICAC task forces and other Federal, State, and*
14 *local law enforcement agencies in the areas of inves-*
15 *tigations, forensics, prosecution, community outreach,*
16 *and capacity-building, using recognized experts to as-*
17 *sist in the development and delivery of training pro-*
18 *grams;*

19 (4) *increasing the number of Internet crimes*
20 *against children offenses being investigated and pros-*
21 *ecuted in both Federal and State courts;*

22 (5) *creating a multiagency task force response to*
23 *Internet crimes against children offenses within each*
24 *State;*

25 (6) *participating in the Department of Justice's*
26 *Project Safe Childhood initiative, the purpose of*

1 *which is to combat technology-facilitated sexual ex-*
 2 *ploitation crimes against children;*

3 *(7) enhancing nationwide responses to Internet*
 4 *crimes against children offenses, including assisting*
 5 *other ICAC task forces, as well as other Federal,*
 6 *State, and local agencies with Internet crimes against*
 7 *children investigations and prosecutions;*

8 *(8) developing and delivering Internet crimes*
 9 *against children public awareness and prevention*
 10 *programs; and*

11 *(9) participating in such other activities, both*
 12 *proactive and reactive, that will enhance investiga-*
 13 *tions and prosecutions of Internet crimes against chil-*
 14 *dren.*

15 **SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.**

16 *Each State or local ICAC task force that is part of*
 17 *the national program of task forces shall—*

18 *(1) consist of State and local investigators, pros-*
 19 *ecutors, forensic specialists, and education specialists*
 20 *who are dedicated to addressing the goals of such task*
 21 *force;*

22 *(2) work consistently toward achieving the pur-*
 23 *poses described in section 103;*

1 (3) engage in proactive investigations, forensic
2 examinations, and effective prosecutions of Internet
3 crimes against children;

4 (4) provide forensic, preventive, and investiga-
5 tive assistance to parents, educators, prosecutors, law
6 enforcement, and others concerned with Internet
7 crimes against children;

8 (5) develop multijurisdictional, multiagency re-
9 sponses and partnerships to Internet crimes against
10 children offenses through ongoing informational, ad-
11 ministrative, and technological support to other State
12 and local law enforcement agencies, as a means for
13 such agencies to acquire the necessary knowledge, per-
14 sonnel, and specialized equipment to investigate and
15 prosecute such offenses;

16 (6) participate in nationally coordinated inves-
17 tigations in any case in which the Attorney General
18 determines such participation to be necessary, as per-
19 mitted by the available resources of such task force;

20 (7) establish or adopt investigative and prosecu-
21 tion standards, consistent with established norms, to
22 which such task force shall comply;

23 (8) investigate, and seek prosecution on, tips re-
24 lated to Internet crimes against children, including
25 tips from the National Internet Crimes Against Chil-

1 *dren Data System established in section 105, the Na-*
2 *tional Center for Missing and Exploited Children's*
3 *CyberTipline, ICAC task forces, and other Federal,*
4 *State, and local agencies, with priority being given to*
5 *investigative leads that indicate the possibility of*
6 *identifying or rescuing child victims, including inves-*
7 *tigative leads that indicate a likelihood of seriousness*
8 *of offense or dangerousness to the community;*

9 *(9) develop procedures for handling seized evi-*
10 *dence;*

11 *(10) maintain—*

12 *(A) such reports and records as are required*
13 *under this title; and*

14 *(B) such other reports and records as deter-*
15 *mined by the Attorney General; and*

16 *(11) seek to comply with national standards re-*
17 *garding the investigation and prosecution of Internet*
18 *crimes against children, as set forth by the Attorney*
19 *General, to the extent such standards are consistent*
20 *with the law of the State where the task force is lo-*
21 *cated.*

1 **SEC. 105. NATIONAL INTERNET CRIMES AGAINST CHILDREN**

2 **DATA SYSTEM.**

3 (a) *IN GENERAL.*—*The Attorney General shall estab-*
4 *lish a National Internet Crimes Against Children Data*
5 *System.*

6 (b) *INTENT OF CONGRESS.*—*It is the purpose and in-*
7 *tent of Congress that the National Internet Crimes Against*
8 *Children Data System established in subsection (a) is in-*
9 *tended to continue and build upon Operation Fairplay de-*
10 *veloped by the Wyoming Attorney General's office, which*
11 *has established a secure, dynamic undercover infrastructure*
12 *that has facilitated online law enforcement investigations*
13 *of child exploitation, information sharing, and the capacity*
14 *to collect and aggregate data on the extent of the problems*
15 *of child exploitation.*

16 (c) *PURPOSE OF SYSTEM.*—*The National Internet*
17 *Crimes Against Children Data System established under*
18 *subsection (a) shall be dedicated to assisting and supporting*
19 *credentialed law enforcement agencies authorized to inves-*
20 *tigate child exploitation in accordance with Federal, State,*
21 *local, and tribal laws, including by providing assistance*
22 *and support to—*

23 (1) *Federal agencies investigating and pros-*
24 *ecuting child exploitation;*

25 (2) *the ICAC Task Force Program established*
26 *under section 102; and*

1 (3) *State, local, and tribal agencies investigating*
 2 *and prosecuting child exploitation.*

3 (d) *CYBER SAFE DECONFLICTION AND INFORMATION*
 4 *SHARING.—The National Internet Crimes Against Children*
 5 *Data System established under subsection (a)—*

6 (1) *shall be housed and maintained within the*
 7 *Department of Justice or a credentialed law enforce-*
 8 *ment agency;*

9 (2) *shall be made available for a nominal charge*
 10 *to support credentialed law enforcement agencies in*
 11 *accordance with subsection (c); and*

12 (3) *shall—*

13 (A) *allow Federal, State, local, and tribal*
 14 *agencies and ICAC task forces investigating and*
 15 *prosecuting child exploitation to contribute and*
 16 *access data for use in resolving case conflicts;*

17 (B) *provide, directly or in partnership with*
 18 *a credentialed law enforcement agency, a dy-*
 19 *namic undercover infrastructure to facilitate on-*
 20 *line law enforcement investigations of child ex-*
 21 *ploitation;*

22 (C) *facilitate the development of essential*
 23 *software and network capability for law enforce-*
 24 *ment participants; and*

1 (D) provide software or direct hosting and
 2 support for online investigations of child exploi-
 3 tation activities, or, in the alternative, provide
 4 users with a secure connection to an alternative
 5 system that provides such capabilities, provided
 6 that the system is hosted within a governmental
 7 agency or a credentialed law enforcement agency.

8 (e) *COLLECTION AND REPORTING OF DATA.*—

9 (1) *IN GENERAL.*—*The National Internet Crimes*
 10 *Against Children Data System established under sub-*
 11 *section (a) shall ensure the following:*

12 (A) *REAL-TIME REPORTING.*—*All child ex-*
 13 *ploitation cases involving local child victims that*
 14 *are reasonably detectable using available soft-*
 15 *ware and data are, immediately upon their de-*
 16 *tection, made available to participating law en-*
 17 *forcement agencies.*

18 (B) *HIGH-PRIORITY SUSPECTS.*—*Every 30*
 19 *days, at minimum, the National Internet Crimes*
 20 *Against Children Data System shall—*

21 (i) *identify high-priority suspects, as*
 22 *such suspects are determined by the volume*
 23 *of suspected criminal activity or other indi-*
 24 *cators of seriousness of offense or dangerous-*

1 ness to the community or a potential local
2 victim; and

3 (ii) report all such identified high-pri-
4 ority suspects to participating law enforce-
5 ment agencies.

6 (C) ANNUAL REPORTS.—Any statistical
7 data indicating the overall magnitude of child
8 pornography trafficking and child exploitation
9 in the United States and internationally is made
10 available and included in the National Strategy,
11 as is required under section 101(c)(16).

12 (2) RULE OF CONSTRUCTION.—Nothing in this
13 subsection shall be construed to limit the ability of
14 participating law enforcement agencies to disseminate
15 investigative leads or statistical information in ac-
16 cordance with State and local laws.

17 (f) MANDATORY REQUIREMENTS OF NETWORK.—The
18 National Internet Crimes Against Children Data System
19 established under subsection (a) shall develop, deploy, and
20 maintain an integrated technology and training program
21 that provides—

22 (1) a secure, online system for Federal law en-
23 forcement agencies, ICAC task forces, and other State,
24 local, and tribal law enforcement agencies for use in
25 resolving case conflicts, as provided in subsection (d);

1 (2) *a secure system enabling online communica-*
 2 *tion and collaboration by Federal law enforcement*
 3 *agencies, ICAC task forces, and other State, local, and*
 4 *tribal law enforcement agencies regarding ongoing in-*
 5 *vestigations, investigatory techniques, best practices,*
 6 *and any other relevant news and professional infor-*
 7 *mation;*

8 (3) *a secure online data storage and analysis*
 9 *system for use by Federal law enforcement agencies,*
 10 *ICAC task forces, and other State, local, and tribal*
 11 *law enforcement agencies;*

12 (4) *secure connections or interaction with State*
 13 *and local law enforcement computer networks, con-*
 14 *sistent with reasonable and established security proto-*
 15 *cols and guidelines;*

16 (5) *guidelines for use of the National Internet*
 17 *Crimes Against Children Data System by Federal,*
 18 *State, local, and tribal law enforcement agencies and*
 19 *ICAC task forces; and*

20 (6) *training and technical assistance on the use*
 21 *of the National Internet Crimes Against Children*
 22 *Data System by Federal, State, local, and tribal law*
 23 *enforcement agencies and ICAC task forces.*

24 (g) *NATIONAL INTERNET CRIMES AGAINST CHILDREN*
 25 *DATA SYSTEM STEERING COMMITTEE.—The Attorney Gen-*

1 eral shall establish a National Internet Crimes Against
 2 Children Data System Steering Committee to provide guid-
 3 ance to the Network relating to the program under sub-
 4 section (f), and to assist in the development of strategic
 5 plans for the System. The Steering Committee shall consist
 6 of 10 members with expertise in child exploitation preven-
 7 tion and interdiction prosecution, investigation, or preven-
 8 tion, including—

9 (1) 3 representatives elected by the local directors
 10 of the ICAC task forces, such representatives shall rep-
 11 resent different geographic regions of the country;

12 (2) 1 representative of the Department of Justice
 13 Office of Information Services;

14 (3) 1 representative from Operation Fairplay,
 15 currently hosted at the Wyoming Office of the Attor-
 16 ney General;

17 (4) 1 representative from the law enforcement
 18 agency having primary responsibility for hosting and
 19 maintaining the National Internet Crimes Against
 20 Children Data System;

21 (5) 1 representative of the Federal Bureau of In-
 22 vestigation's Innocent Images National Initiative or
 23 Regional Computer Forensic Lab program;

24 (6) 1 representative of the Immigration and Cus-
 25 toms Enforcement's Cyber Crimes Center;

1 (7) 1 representative of the United States Postal
2 Inspection Service; and

3 (8) 1 representative of the Department of Justice.

4 (h) *AUTHORIZATION OF APPROPRIATIONS.*—There are
5 authorized to be appropriated for each of the fiscal years
6 2009 through 2016, \$2,000,000 to carry out the provisions
7 of this section.

8 **SEC. 106. ICAC GRANT PROGRAM.**

9 (a) *ESTABLISHMENT.*—

10 (1) *IN GENERAL.*—The Attorney General is au-
11 thorized to award grants to State and local ICAC
12 task forces to assist in carrying out the duties and
13 functions described under section 104.

14 (2) *FORMULA GRANTS.*—

15 (A) *DEVELOPMENT OF FORMULA.*—At least
16 75 percent of the total funds appropriated to
17 carry out this section shall be available to award
18 or otherwise distribute grants pursuant to a
19 funding formula established by the Attorney
20 General in accordance with the requirements in
21 subparagraph (B).

22 (B) *FORMULA REQUIREMENTS.*—Any for-
23 mula established by the Attorney General under
24 subparagraph (A) shall—

1 (i) ensure that each State or local
2 ICAC task force shall, at a minimum, re-
3 ceive an amount equal to 0.5 percent of the
4 funds available to award or otherwise dis-
5 tribute grants under subparagraph (A); and

6 (ii) take into consideration the fol-
7 lowing factors:

8 (I) The population of each State,
9 as determined by the most recent de-
10 cennial census performed by the Bu-
11 reau of the Census.

12 (II) The number of investigative
13 leads within the applicant's jurisdic-
14 tion generated by the ICAC Data Net-
15 work, the CyberTipline, and other
16 sources.

17 (III) The number of criminal
18 cases related to Internet crimes against
19 children referred to a task force for
20 Federal, State, or local prosecution.

21 (IV) The number of successful
22 prosecutions of child exploitation cases
23 by a task force.

24 (V) The amount of training, tech-
25 nical assistance, and public education

1 or outreach by a task force related to
 2 the prevention, investigation, or pros-
 3 ecution of child exploitation offenses.

4 (VI) Such other criteria as the At-
 5 torney General determines demonstrate
 6 the level of need for additional re-
 7 sources by a task force.

8 (3) *DISTRIBUTION OF REMAINING FUNDS BASED*
 9 *ON NEED.*—

10 (A) *IN GENERAL.*—Any funds remaining
 11 from the total funds appropriated to carry out
 12 this section after funds have been made available
 13 to award or otherwise distribute formula grants
 14 under paragraph (2)(A) shall be distributed to
 15 State and local ICAC task forces based upon
 16 need, as set forth by criteria established by the
 17 Attorney General. Such criteria shall include the
 18 factors under paragraph (2)(B)(ii).

19 (B) *MATCHING REQUIREMENT.*—A State or
 20 local ICAC task force shall contribute matching
 21 non-Federal funds in an amount equal to not
 22 less than 25 percent of the amount of funds re-
 23 ceived by the State or local ICAC task force
 24 under subparagraph (A). A State or local ICAC
 25 task force that is not able or willing to contribute

1 *matching funds in accordance with this subpara-*
 2 *graph shall not be eligible for funds under sub-*
 3 *paragraph (A).*

4 (C) *WAIVER.—The Attorney General may*
 5 *waive, in whole or in part, the matching require-*
 6 *ment under subparagraph (B) if the State or*
 7 *local ICAC task force demonstrates good cause or*
 8 *financial hardship.*

9 (b) *APPLICATION.—*

10 (1) *IN GENERAL.—Each State or local ICAC*
 11 *task force seeking a grant under this section shall sub-*
 12 *mit an application to the Attorney General at such*
 13 *time, in such manner, and accompanied by such in-*
 14 *formation as the Attorney General may reasonably*
 15 *require.*

16 (2) *CONTENTS.—Each application submitted*
 17 *pursuant to paragraph (1) shall—*

18 (A) *describe the activities for which assist-*
 19 *ance under this section is sought; and*

20 (B) *provide such additional assurances as*
 21 *the Attorney General determines to be essential*
 22 *to ensure compliance with the requirements of*
 23 *this title.*

24 (c) *ALLOWABLE USES.—Grants awarded under this*
 25 *section may be used to—*

1 (1) *hire personnel, investigators, prosecutors,*
2 *education specialists, and forensic specialists;*

3 (2) *establish and support forensic laboratories*
4 *utilized in Internet crimes against children investiga-*
5 *tions;*

6 (3) *support investigations and prosecutions of*
7 *Internet crimes against children;*

8 (4) *conduct and assist with education programs*
9 *to help children and parents protect themselves from*
10 *Internet predators;*

11 (5) *conduct and attend training sessions related*
12 *to successful investigations and prosecutions of Inter-*
13 *net crimes against children; and*

14 (6) *fund any other activities directly related to*
15 *preventing, investigating, or prosecuting Internet*
16 *crimes against children.*

17 (d) *REPORTING REQUIREMENTS.—*

18 (1) *ICAC REPORTS.—To measure the results of*
19 *the activities funded by grants under this section, and*
20 *to assist the Attorney General in complying with the*
21 *Government Performance and Results Act (Public*
22 *Law 103–62; 107 Stat. 285), each State or local*
23 *ICAC task force receiving a grant under this section*
24 *shall, on an annual basis, submit a report to the At-*
25 *torney General that sets forth the following:*

1 (A) *Staffing levels of the task force, includ-*
2 *ing the number of investigators, prosecutors, edu-*
3 *cation specialists, and forensic specialists dedi-*
4 *cated to investigating and prosecuting Internet*
5 *crimes against children.*

6 (B) *Investigation and prosecution perform-*
7 *ance measures of the task force, including—*

8 (i) *the number of investigations initi-*
9 *ated related to Internet crimes against chil-*
10 *dren;*

11 (ii) *the number of arrests related to*
12 *Internet crimes against children; and*

13 (iii) *the number of prosecutions for*
14 *Internet crimes against children, includ-*
15 *ing—*

16 (I) *whether the prosecution re-*
17 *sulted in a conviction for such crime;*
18 *and*

19 (II) *the sentence and the statutory*
20 *maximum for such crime under State*
21 *law.*

22 (C) *The number of referrals made by the*
23 *task force to the United States Attorneys office,*
24 *including whether the referral was accepted by*
25 *the United States Attorney.*

1 (D) *Statistics that account for the disposi-*
 2 *tion of investigations that do not result in ar-*
 3 *rests or prosecutions, such as referrals to other*
 4 *law enforcement.*

5 (E) *The number of investigative technical*
 6 *assistance sessions that the task force provided to*
 7 *nonmember law enforcement agencies.*

8 (F) *The number of computer forensic exami-*
 9 *nations that the task force completed.*

10 (G) *The number of law enforcement agencies*
 11 *participating in Internet crimes against children*
 12 *program standards established by the task force.*

13 (2) *REPORT TO CONGRESS.—Not later than 1*
 14 *year after the date of enactment of this Act, the Attor-*
 15 *ney General shall submit a report to Congress on—*

16 (A) *the progress of the development of the*
 17 *ICAC Task Force Program established under sec-*
 18 *tion 102; and*

19 (B) *the number of Federal and State inves-*
 20 *tigations, prosecutions, and convictions in the*
 21 *prior 12-month period related to child exploi-*
 22 *tation.*

23 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) *IN GENERAL.—There are authorized to be appro-*
 25 *priated to carry out this title—*

- 1 (1) \$60,000,000 for fiscal year 2009;
- 2 (2) \$75,000,000 for fiscal year 2010;
- 3 (3) \$75,000,000 for fiscal year 2011;
- 4 (4) \$75,000,000 for fiscal year 2012;
- 5 (5) \$75,000,000 for fiscal year 2013;
- 6 (6) \$75,000,000 for fiscal year 2014;
- 7 (7) \$100,000,000 for fiscal year 2015; and
- 8 (8) \$100,000,000 for fiscal year 2016.

9 (b) *AVAILABILITY.*—Funds appropriated under sub-
 10 section (a) shall remain available until expended.

11 **TITLE II—ADDITIONAL MEAS-** 12 **URES TO COMBAT CHILD EX-** 13 **PLOITATION**

14 **SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC** 15 **LABS.**

16 (a) *ADDITIONAL RESOURCES.*—The Attorney General
 17 shall establish additional computer forensic capacity to ad-
 18 dress the current backlog for computer forensics, including
 19 for child exploitation investigations. The Attorney General
 20 may utilize funds under this title to increase capacity at
 21 existing regional forensic laboratories or to add laboratories
 22 under the Regional Computer Forensic Laboratories Pro-
 23 gram operated by the Federal Bureau of Investigation.

24 (b) *PURPOSE OF NEW RESOURCES.*—The additional
 25 forensic capacity established by resources provided under

1 *this section shall be dedicated to assist Federal agencies,*
2 *State and local Internet Crimes Against Children task*
3 *forces, and other Federal, State, and local law enforcement*
4 *agencies in preventing, investigating, and prosecuting*
5 *Internet crimes against children.*

6 (c) *NEW COMPUTER FORENSIC LABS.—If the Attorney*
7 *General determines that new regional computer forensic*
8 *laboratories are required under subsection (a) to best ad-*
9 *dress existing backlogs, such new laboratories shall be estab-*
10 *lished pursuant to subsection (d).*

11 (d) *LOCATION OF NEW LABS.—The location of any*
12 *new regional computer forensic laboratories under this sec-*
13 *tion shall be determined by the Attorney General, in con-*
14 *sultation with the Director of the Federal Bureau of Inves-*
15 *tigation, the Regional Computer Forensic Laboratory Na-*
16 *tional Steering Committee, and other relevant stakeholders.*

17 (e) *REPORT.—Not later than 1 year after the date of*
18 *enactment of this Act, and every year thereafter, the Attor-*
19 *ney General shall submit a report to the Congress on how*
20 *the funds appropriated under this section were utilized.*

21 (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
22 *authorized to be appropriated for fiscal years 2009 through*
23 *2016, \$7,000,000 to carry out the provisions of this section.*

1 **SEC. 202. ADDITIONAL FIELD AGENTS FOR THE FBI.**

2 (a) *IN GENERAL.*—*There are authorized to be appro-*
 3 *priated to the Attorney General \$30,000,000 for each of the*
 4 *fiscal years 2009 through 2016 to fund the hiring of full-*
 5 *time Federal Bureau of Investigation field agents and asso-*
 6 *ciated analysts and support staff in addition to the number*
 7 *of such employees serving in those capacities on the date*
 8 *of enactment of this Act.*

9 (b) *SOLE PURPOSE.*—*The sole purpose of the addi-*
 10 *tional staff required to be hired under subsection (a) is to*
 11 *work on child exploitation cases as part of the Federal Bu-*
 12 *reau of Investigation’s Innocent Images National Initiative.*

13 **SEC. 203. IMMIGRATION AND CUSTOMS ENFORCEMENT EN-**
 14 **HANCEMENT.**

15 (a) *ADDITIONAL AGENTS.*—*There are authorized to be*
 16 *appropriated to the Secretary of Homeland Security*
 17 *\$15,000,000, for each of the fiscal years 2009 through 2016,*
 18 *to fund the hiring of full-time agents and associated ana-*
 19 *lysts and support staff within the Bureau of Immigration*
 20 *and Customs Enforcement in addition to the number of*
 21 *such employees serving in those capacities on the date of*
 22 *enactment of this Act.*

23 (b) *SOLE PURPOSE.*—*The sole purpose of the addi-*
 24 *tional staff required to be hired under subsection (a) is to*
 25 *work on child exploitation and child obscenity cases.*

1 **SEC. 204. COMBATING CHILD EXPLOITATION VIA THE**
 2 **UNITED STATES POSTAL SERVICE.**

3 (a) *IN GENERAL.*—There are authorized to be appro-
 4 priated to the Postmaster General \$5,000,000, for each of
 5 the fiscal years 2009 through 2016, to fund the hiring of
 6 full-time postal inspectors and associated analysts and sup-
 7 port staff in addition to the number of such employees serv-
 8 ing in those capacities on the date of the enactment of this
 9 Act.

10 (b) *SOLE PURPOSE.*—The sole purpose of the addi-
 11 tional staff required to be hired under subsection (a) is to
 12 work on child exploitation and child obscenity cases and
 13 may be used to support the Deliver Me Home program de-
 14 veloped by the United States Postal Service.

15 **TITLE III—EFFECTIVE CHILD**
 16 **PORNOGRAPHY PROSECUTION**

17 **SEC. 301. EFFECTIVE CHILD PORNOGRAPHY PROSECUTION.**

18 (a) *SEXUAL EXPLOITATION OF CHILDREN.*—Section
 19 2251 of title 18, United States Code, is amended—

20 (1) in subsection (a), by striking “knows or has
 21 reason to know” and all that follows through the pe-
 22 riod at the end, and inserting “transported in or af-
 23 fecting interstate or foreign commerce or using a fa-
 24 cility or means of interstate or foreign commerce or
 25 mailed, if such visual depiction was produced using
 26 materials that have been mailed, shipped, or trans-

ported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.”;

(2) in subsection (b), by striking “knows or has reason to know” and all that follows through the period at the end, and inserting “transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, if such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.”;

(3) in subsection (c)(2)—

(A) in subparagraph (A), by striking “computer” and inserting “using a facility or means of interstate or foreign commerce”; and

(B) in subparagraph (B), by striking “computer” and inserting “using a facility or means of interstate or foreign commerce”; and

(4) in subsection (d)(2)—

1 (A) in subparagraph (A), by striking
 2 “transported in interstate” and all that follows
 3 through “computer” and inserting “transported
 4 in or affecting interstate or foreign commerce or
 5 using a facility or means of interstate or foreign
 6 commerce,”; and

7 (B) in subparagraph (B), by striking
 8 “transported in interstate” and all that follows
 9 through “computer” and inserting “transported
 10 in or affecting interstate or foreign commerce or
 11 using a facility or means of interstate or foreign
 12 commerce,”.

13 (b) *SELLING OR BUYING OF CHILDREN*.—Subsection
 14 (c)(2) of section 2251A of title 18, United States Code, is
 15 amended by striking “in interstate or foreign” and all that
 16 follows through “computer or” and inserting “in or affect-
 17 ing interstate or foreign commerce or using a facility or
 18 means of interstate or foreign commerce, or by”.

19 (c) *MATERIAL INVOLVING THE SEXUAL EXPLOITATION*
 20 *OF MINORS*.—Subsection (a) of section 2252 of title 18,
 21 United States Code, is amended—

22 (1) in paragraph (1), by striking “in interstate
 23 or foreign” and all that follows through “computer”
 24 and inserting “in or affecting interstate or foreign

1 *commerce or using a facility or means of interstate*
2 *or foreign commerce”;*

3 *(2) in paragraph (2)—*

4 *(A) by striking “has been shipped or trans-*
5 *ported in interstate or foreign commerce” and*
6 *inserting “has been shipped or transported in or*
7 *affecting interstate or foreign commerce or using*
8 *a facility or means of interstate or foreign com-*
9 *merce”;* and

10 *(B) by striking “distribution in interstate*
11 *or foreign commerce” and inserting “distribution*
12 *in or affecting interstate or foreign commerce or*
13 *using a facility or means of interstate or foreign*
14 *commerce”;*

15 *(3) in paragraph (3)(B), by striking “has been*
16 *shipped or transported in interstate or foreign com-*
17 *merce” and inserting “has been shipped or trans-*
18 *ported in or affecting interstate or foreign commerce*
19 *or using a facility or means of interstate or foreign*
20 *commerce”;* and

21 *(4) in paragraph (4)(B), by striking “has been*
22 *shipped or transported in interstate or foreign com-*
23 *merce” and inserting “has been shipped or trans-*
24 *ported in or affecting interstate or foreign commerce*

1 or using a facility or means of interstate or foreign
2 commerce”.

3 (d) *MATERIAL CONSTITUTING OR CONTAINING CHILD*
4 *PORNOGRAPHY.*—Subsection (a) of section 2252A of title
5 18, United States Code, is amended—

6 (1) by striking “in interstate or foreign com-
7 merce by any means, including by computer” each
8 place that term appears and inserting “in or affecting
9 interstate or foreign commerce or using a facility or
10 means of interstate or foreign commerce”; and

11 (2) in paragraph (6)(C), by striking “or by
12 transmitting or causing to be transmitted any wire
13 communication in interstate or foreign commerce, in-
14 cluding by computer” and inserting “or a facility or
15 means of interstate or foreign commerce”.

16 (e) *OBSCENE VISUAL REPRESENTATIONS OF THE SEX-*
17 *UAL ABUSE OF CHILDREN.*—Subsection (d)(4) of section
18 1466A of title 18, United States Code, is amended by strik-
19 ing “has been shipped transported in interstate or foreign
20 commerce by any means, including by computer” and in-
21 serting “has been shipped or transported in or affecting
22 interstate or foreign commerce or using a facility or means
23 of interstate or foreign commerce”.

24 (f) *RULE OF CONSTRUCTION.*—Nothing in this title,
25 or any amendment by this title, shall be construed to fore-

1 *close any argument or ruling with respect to any Federal*
 2 *law that, for the purposes of Federal jurisdiction, the use*
 3 *of a facility or means of interstate or foreign commerce af-*
 4 *fects interstate or foreign commerce.*

5 **SEC. 302. PROHIBIT THE BROADCAST OF LIVE IMAGES OF**
 6 **CHILD ABUSE.**

7 *Section 2251 of title 18, United States Code is amend-*
 8 *ed—*

9 *(1) in subsection (a), by—*

10 *(A) inserting “or for the purpose of trans-*
 11 *mitting a live visual depiction of such conduct”*
 12 *after “for the purpose of producing any visual*
 13 *depiction of such conduct”;*

14 *(B) inserting “or transmitted” after “if*
 15 *such person knows or has reason to know that*
 16 *such visual depiction will be transported”;*

17 *(C) inserting “or transmitted” after “if that*
 18 *visual depiction was produced”; and*

19 *(D) inserting “or transmitted” after “has*
 20 *actually been transported”; and*

21 *(2) in subsection (b), by—*

22 *(A) inserting “or for the purpose of trans-*
 23 *mitting a live visual depiction of such conduct”*
 24 *after “for the purpose of producing any visual*
 25 *depiction of such conduct”;*

1 (B) inserting “or transmitted” after “per-
 2 son knows or has reason to know that such visual
 3 depiction will be transported”;

4 (C) inserting “or transmitted” after “if that
 5 visual depiction was produced”; and

6 (D) inserting “or transmitted” after “has
 7 actually been transported”.

8 **SEC. 303. AMENDMENT TO SECTION 2256 OF TITLE 18,**
 9 **UNITED STATES CODE.**

10 Section 2256(5) of title 18, United States Code is
 11 amended by—

12 (1) striking “and” before “data”;

13 (2) after “visual image” by inserting “, and
 14 data which is capable of conversion into a visual
 15 image that has been transmitted by any means,
 16 whether or not stored in a permanent format”.

17 **SEC. 304. AMENDMENT TO SECTION 2260 OF TITLE 18,**
 18 **UNITED STATES CODE.**

19 Section 2260(a) of title 18, United States Code, is
 20 amended by—

21 (1) inserting “or for the purpose of transmitting
 22 a live visual depiction of such conduct” after “for the
 23 purpose of producing any visual depiction of such
 24 conduct”; and

25 (2) inserting “or transmitted” after “imported”.

1 **SEC. 305. PROHIBITING THE ALTERATION OF AN IMAGE OF**
2 **A REAL CHILD TO CREATE AN IMAGE OF SEX-**
3 **UALLY EXPLICIT CONDUCT.**

4 (a) *IN GENERAL.*—Subsection (a) of section 2252A of
5 title 18, United States Code, is amended—

6 (1) *in paragraph (5) by striking “; or” and in-*
7 *serting a semicolon;*

8 (2) *in paragraph (6), by striking the period at*
9 *the end and inserting “; or”; and*

10 (3) *by inserting at the end the following:*

11 “(7) *knowingly creates, alters, adapts, or modi-*
12 *fies a visual depiction of an identifiable minor, as de-*
13 *finied in section 2256(9), so that it depicts child por-*
14 *nography as defined in section 2256(8), and intends*
15 *to distribute or actually distributes that visual depic-*
16 *tion by any means, where such person knows or has*
17 *reason to know that such visual depiction will be*
18 *transported in or affecting interstate or foreign com-*
19 *merce or using a facility or means of interstate or*
20 *foreign commerce or mailed, where such visual depic-*
21 *tion has actually been transported in or affecting*
22 *interstate or foreign commerce or using a facility or*
23 *means of interstate or foreign commerce or mailed, or*
24 *where the visual depiction was produced using mate-*
25 *rials that have been mailed, shipped, or transported*

1 *in interstate or foreign commerce by any means, in-*
 2 *cluding by computer,”.*

3 (b) *PENALTY.*—Section 2252A(b) of title 18, United
 4 States Code, is amended by striking “(4), or (6)” and in-
 5 serting “(4), (6), or (7)”.

6 **SEC. 306. REFERRALS TO AUTHORIZED FOREIGN LAW EN-**
 7 **FORCEMENT AGENCIES.**

8 (a) *VOLUNTARY REPORTS.*—A provider of electronic
 9 communication services or remote computing services may
 10 voluntarily make a report, as defined at section 227(b)(1)
 11 of the Victims of Child abuse Act of 1990 (42 U.S.C.
 12 13032(b)(1)), directly to a representative of a foreign law
 13 enforcement agency—

14 (1) *of a foreign state that is a signatory to a*
 15 *Mutual Legal Assistance Treaty with the United*
 16 *States that has been ratified by the United States*
 17 *Senate and has come into force; and*

18 (2) *that has certified in writing that the request*
 19 *is made for the purpose of investigating, or engaging*
 20 *in enforcement proceedings related to, possible viola-*
 21 *tions of foreign laws related to child pornography and*
 22 *child exploitation similar to practices prohibited by*
 23 *sections 2251, 2251A, 2252, 2252A, 2252B, or 2260*
 24 *of title 18, United States Code, involving child por-*

1 *nography (as defined in section 2256 of that title), or*
 2 *1466A of that title.*

3 *(b) REPORTS TO FOREIGN LAW ENFORCEMENT.—Re-*
 4 *ports to foreign law enforcement may only be transmitted*
 5 *to the Central Authority designated in the foreign country's*
 6 *Mutual Legal Assistance Treaty with the United States and*
 7 *may only be transmitted via mail or fax, or via electronic*
 8 *mail to a government-owned e-mail domain.*

9 *(c) REPORTS TO NCMEC.—Nothing in this section*
 10 *shall be construed to relieve providers of electronic commu-*
 11 *nication services or remote computing services of their obli-*
 12 *gations under section 227(b)(1) of the Victims of Child*
 13 *abuse Act of 1990 (42 U.S.C. 13032(b)(1)) to make reports*
 14 *to the National Center for Missing and Exploited Children.*

15 *(d) LIMITATION ON LIABILITY.—*

16 *(1) IN GENERAL.—Except as provided in para-*
 17 *graph (2), a provider of electronic communication*
 18 *services or remote computing services, or any of its*
 19 *directors, officers, employees, or agents, is not liable*
 20 *in any civil or criminal action arising from the per-*
 21 *formance of the reporting activities described in sub-*
 22 *section (a).*

23 *(2) INTENTIONAL, RECKLESS, OR OTHER MIS-*
 24 *CONDUCT.—Paragraph (1) does not apply in an ac-*
 25 *tion in which a party proves that the provider of elec-*

1 *tronic communication services or remote computing*
 2 *services, or its officer, employee, or agent as the case*
 3 *may be, engaged in intentional misconduct or acted*
 4 *with actual malice, or with reckless disregard to a*
 5 *substantial risk of causing injury without legal jus-*
 6 *tification.*

7 ***TITLE IV—NATIONAL INSTITUTE***
 8 ***OF JUSTICE STUDY OF RISK***
 9 ***FACTORS***

10 ***SEC. 401. NIJ STUDY OF RISK FACTORS FOR ASSESSING***
 11 ***DANGEROUSNESS.***

12 *(a) IN GENERAL.—Not later than 1 year after the date*
 13 *of enactment of this Act, the National Institute of Justice*
 14 *shall prepare a report to identify investigative factors that*
 15 *reliably indicate whether a subject of an online child exploi-*
 16 *tation investigation poses a higher risk of harm to children.*
 17 *Such a report shall be prepared in consultation and coordi-*
 18 *nation with Federal law enforcement agencies, the National*
 19 *Center for Missing and Exploited Children, Operation*
 20 *Fairplay at the Wyoming Attorney General's Office, the*
 21 *Internet Crimes Against Children Task Force, and other*
 22 *State and local law enforcement.*

23 *(b) CONTENTS OF ANALYSIS.—The report required by*
 24 *subsection (a) shall include a thorough analysis of potential*
 25 *investigative factors in on-line child exploitation cases and*

1 *an appropriate examination of investigative data from*
2 *prior prosecutions and case files of identified child victims.*

3 (c) *REPORT TO CONGRESS.*—*Not later than 1 year*
4 *after the date of enactment of this Act, the National Insti-*
5 *tute of Justice shall submit a report to the House and Sen-*
6 *ate Judiciary Committees that includes the findings of the*
7 *study required by this section and makes recommendations*
8 *on technological tools and law enforcement procedures to*
9 *help investigators prioritize scarce resources to those cases*
10 *where there is actual hands-on abuse by the suspect.*

11 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
12 *authorized to be appropriated \$1,000,000 to the National*
13 *Institute of Justice to conduct the study required under this*
14 *section.*

Calendar No. 862

110TH CONGRESS
2^D Session

S. 1738

A BILL

To establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

JULY 7, 2008

Reported with an amendment